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UNITED STATE DISTRICT COURT  
FOR DISTRICT OF NORTHERN CALIFORNIA

BAO YI YANG, WEI WANG, AND LIANG  
XIAN FU

Plaintiffs,

vs.

SHANGHAI GOURMET, LLC, dba  
SHANGHAI GOURMET, and DOES 1-10

Defendants

Case No.: C07-4482 JL

**PLAINTIFF'S MOTION TO SHORTEN  
TIME FOR A HEARING ON MOTION  
FOR LEAVE TO FILE A SECOND  
AMENDED COMPLAINT**

Pursuant Civil Local Rule 6-3, Plaintiffs hereby move the Court to shorten time for a hearing on Plaintiffs' Motion for Leave to File A Second Amended Complaint as follows:

1. On August 2, 2008 Plaintiffs filed a Motion for Leave to File A Second Amended Complaint ("Motion") (Docket No. 36). The Motion seeks to add a cause of action to allege civil penalties under California Labor Code § 558 on behalf of Plaintiffs themselves pursuant to Labor Code Private Attorney General's Act, California Labor Code § 2699, *et seq.* ("PAGA"). The purpose of the new the cause of action is to allow Plaintiffs to recover the full amount of overtime owed under California Labor Code against individual Defendants because these individuals are "person[s] acting on behalf of the employer" within the meaning of § 558.

2. Prior to this Motion, the Court has considered and ruled on Plaintiffs' Motion for Leave to File A First Amended Complaint. In that motion, Plaintiffs sought to, among other

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things, allege the § 558 civil penalty on behalf of all employees of Defendant. After considering parties' briefings and oral arguments, on July 22, 2008, the Court denied Plaintiffs' motion to allege § 558 civil penalties on behalf of all employees without prejudice on the ground that California Supreme Court is in review of the issue whether Plaintiffs have to satisfy class action requirements to before they can pursue civil penalty under PAGA on behalf of all employees, see Order Granting in Part Plaintiffs' Motion For Leave to File First Amended Complaint (Docket No. 34).

3. Given the prior motion, the parties' thorough briefings, and the Court's order on that motion, there really is little left to be argued on the current Motion which only seeks to allege § 558 civil penalties on behalf of Plaintiffs themselves. As such, Plaintiffs request that the Court shorten time for briefing and hearing on this Motion.

4. Plaintiffs' counsel request that Court schedule a hearing, if one is to be held, on August 20, 2008, allowing Defendants one week to file an opposition, if any, by August 11, 2008, and Plaintiffs to file a reply, if any, by August 13, 2008.

I, the undersigned, declare under the penalty of perjury under the laws of the United States the foregoing factual statement is true and accurate.

Dated: August 2, 2008

By: /s/ Adam Wang.  
Adam Wang  
Attorney for Plaintiffs

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[PROPOSED] ORDER

GOOD CAUSE APPEARING, IT IS HEREBY ORDERED that Defendants shall file their opposition to Plaintiff Motion for Leave to File A Second Amended Complaint by August 11, 2008; and Plaintiffs shall file their Reply, if any, by August 13, 2008. The Court will hear this motion on August 20, 2008.

IT IS SO ORDERED.

Date: August \_\_, 2008

By: \_\_\_\_\_  
James Larson  
United States Magistrate Judge

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